

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GABRIEL LOPEZ-BERESTEIN,
WILLIAM A. REMERS and EVAN HERSH

Application No. 09/989,695

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

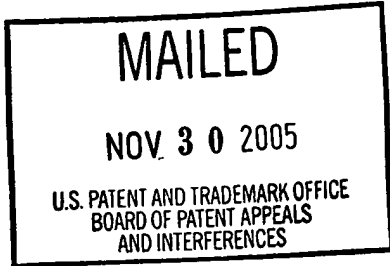
This application was received electronically at the Board of Patent Appeals and Interferences on October 5, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the application indicates that the following heading is missing from the Appeal Brief of January 21, 2005:

"Related proceedings appendix", as set forth in 37 CFR
§ 41.37(c)(1)(x).

A Supplemental Appeal Brief that is in compliance with 37 CFR
§ 41.37(c) is required.

Furthermore, the Examiner's Answer mailed on May 11, 2005 does not comply with the headings as set forth in the new rules under 37 CFR § 41.37(c). Correction is required.



An Information Disclosure Statement (IDS) was filed July 9, 2002. It is not apparent from the record that the examiner properly considered the IDS submitted nor notified appellants of why his submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly it is

ORDERED that the application is returned to the Examiner to:

- 1) hold the Appeal Brief of January 21, 2005 defective;
- 2) for applicant to file a Supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for the examiner to consider the Supplemental Appeal Brief, and vacate the Examiner's Answer mailed May 11, 2005, and issue a new Examiner's Answer in accordance with the new rules;

- 4) for the examiner to consider the July 9, 2002 IDS;
- 5) for the examiner to give written notification to appellant regarding the result of the examiner's consideration and;
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: _____



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